



# Report of Development Application Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979

## APPLICATION DETAILS

Application No.:	DA20/0774
Modification No.:	N/A
Council File No.:	D/2020/0774
Date of Lodgement:	21/12/2020
Applicant:	Exceeding Pty Ltd Po Box 106 CARINGBAH NSW 1495
Proposal:	Change of Use to Centre Based childcare facility (60 places) including associated alterations and additions, signage, landscaping and boundary fencing
Description of Modification:	N/A
Development Cost:	\$275,000
Assessment Officer:	Amanda Gray
Determination Body:	Council
Other Approvals	Nil
Type of Application:	Development Application
Concurrence Required:	No
Referrals:	Internal
Adjoining Owners Notification:	29 January - 12 February 2021
Advertising:	29 January - 12 February 2021
Owner's Consent Provided:	yes
Location:	On the eastern side of Peter Street approximately 100 metres to the north of the junction with Thompson Street

## SITE DETAILS

Subject Land:	133 Peter St WAGGA WAGGA NSW 2650 Lot 1 DP 85685
Owner:	Kenzala Pty Ltd, Arockette Pty Ltd, RL Davies, TJ Davies

## REPORT

### Description of Development

This application is for the change of use of from an existing commercial premises to a child care facility.

The centre will cater for 60 children split between four separate rooms. The centre will also include offices, lobby, cot room, nappy change rooms, a kitchen, laundry, store, toilets and pram storage. The outdoor area will wrap around the building and be landscaped with trees and garden beds. It will include shade sails, sand-pit and a new structure forming an undercover play area on the southern boundary.

Upgrades to the existing building are proposed including the demolition of internal walls to create appropriate spaces for the childcare centre. Two additions to the rear are proposed, firstly a connection between the existing building and the out-building which will be utilised as the laundry and nappy change with a ramp connecting the two spaces. The second addition is to the rear of the outbuilding and will be used as the kitchen and pram storage location. The upper floor of the existing out-building will be used as office space.

Fencing is proposed to the front boundary, it will 1.8m in height of an open-style and secure the proposed outdoor play space. The fencing is proposed to be set into the site by 600mm to allow for planting to soften its impact to the streetscape. A pergola type structure is proposed to offer a covered walkway into the centre from the street. A double set of self-locking gates are also proposed to the front entry leading to a new compliant access ramp into the building. Comparable fencing and gates are also proposed to the rear laneway. A single business identification sign will be fitted to the fence adjacent to both the front and rear entry points, the signs are non-illuminated.

The centre is proposed to operate from 6am to 6pm Monday to Saturdays. The centre will employ up to 11 staff members on any given day.

### **The Site and Locality**

The subject site is legally identified as Lot 1 DP85685 and is known as 133 Peter Street. The lot is uniform in shape extending to 1012sq.m and is located on the eastern side of Peter Street approximately 100 metres to the north of the junction with Thompson Street.

The premises consists of a single storey detached building with detached outbuilding to the rear. There is a driveway along the southern side of the building allowing for car-parking adjacent to the building. There is additional parking at the rear of the building with rear lane vehicle access onto Tongaboo Lane.

The subject site is surrounded by various commercial properties including many that front onto Baylis Street. Land directly to the south is a short-stay car-park and to the west on the opposite side of Peter Street there are residential properties and some medical practices.

The opposite side of Peter Street to the west is within the heritage conservation area. The properties are characterised by distinctive facades and front elevations that contribute to the conservation area. Properties in general are accessed from rear laneways.

### **Easements and Covenants**

The land is not subject to any known easements or covenants.

### **Previous Development Consents**

DA/125/98 - Additions to existing commercial premises - Approved 15.7.1998.  
DA99/0415 - Additions to premises. Approved 22.7.1999.

**MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)****Section 4.15(a)(i) - The provisions of any environmental planning instrument (EPI)****Wagga Wagga Local Environmental Plan 2010**

Under the provisions of the WWLEP 2010 the land is zoned B3 Commercial Core. The objectives of the B3 zone are:

- ☐ *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- ☐ *To encourage appropriate employment opportunities in accessible locations.*
- ☐ *To maximise public transport patronage and encourage walking and cycling.*
- ☐ *To ensure the maintenance and improvement of the historic, architectural and aesthetic character of the commercial core area.*

The development will serve the needs of both the local and wider community providing child care services to those living and working within the central area. The use will provide employment for the service providers and is in an accessible location that allows for clients to walk and catch the bus to utilise this service. The proposed changes to the building and the site layout are compatible with the existing site and do not detract from the aesthetic of the location.

Based on the above the development is seen to be consistent with the listed zone objectives.

**Part 2 Permitted or prohibited development Land Use**

The development is defined as a *centre based child-care facility* which means:

*(a) a building or place used for the education and care of children that provides any one or more of the following:*

- (i) long day care,*
- (ii) occasional child care,*
- (iii) out-of-school-hours care (including vacation care),*
- (iv) preschool care, or*

*(b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW))*

*Note: An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.*

*but does not include:*

- (c) a building or place used for home-based child care or school-based child care, or*
- (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)) or*
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or*
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for*

*participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or*

*(h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.*

The use is specifically listed as permitted with consent within the B3 zone.

### **Part 3 Exempt & Complying Development**

The proposed development is not Exempt or Complying Development. The application is seeking consent.

### **Part 4 Principal development standards**

#### **4.3 Height of buildings**

*The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map*

The development site is shown on the Height of Buildings Map as being within an area that permits a maximum building height of twenty-five (25) metres. There are no changes proposed to the building that is much lower in height than the permitted maximum height.

#### **4.4 Floor space ratio**

*The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map*

The development site is shown on the Floor Space Ratio Map as being within an area that permits a FSR of '4:1'. Following the proposed alterations and additions the FSR has been calculated as 0.42:1 and remains well within the permitted floor space ratio.

### **Part 5 Miscellaneous provisions**

There are no miscellaneous provisions that apply to the application.

### **Part 6 Urban Release Areas**

The proposal is not within an Urban Release Area.

### **Part 7 Additional Local Provisions**

#### **7.6 - Groundwater Vulnerability**

Clause 7.6 of the WWLEP 2010 relates to groundwater vulnerability. The subject site is identified as sensitive on the Water Resources Map and as such this clause applies. The objective of this clause is to protect and preserve groundwater sources. It is not anticipated that there will be any adverse impacts on groundwater as the use is not identified under this clause as impacting on groundwater sources and the works are all associated with an existing building.

#### **7.9 - Primacy of Zone B3 Commercial Core**

Clause 7.9 states that development consent must not be granted to development on any land unless the consent authority is satisfied that the development maintains the primacy of Zone B3 Commercial Core as the principal business, office and retail hub of Wagga Wagga. The development is within the CBD and therefore satisfies this control.

## State Environmental Planning Policies (SEPPs)

### SEPP 55 Remediation of Land

Clause 7 of SEPP 55 states the following:

*(1) A consent authority must not consent to the carrying out of any development on land unless-*

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

*(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

*(4) The land concerned is-*

- (a) land that is within an investigation area,*
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital-land-*
  - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
  - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

The subject site is not listed on Council's potentially contaminated land register and there is no evidence of any use of the site for a purpose listed in Table 1 of the guidelines. The users of the building have always been of a residential or commercial nature (business or offices). There is no evidence that the site has been used by any contaminating land uses and the proposed change of use requires minor site works only across existing areas of hard stand.

The site is considered suitable for the intended use in accordance with the SEPP.

### State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Subject to subclause (2), if there is an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

### Part 3 Early education and care facilities-specific development controls

Clause 22 applies to development which does not comply with the floor area or outdoor space requirements specified in the Education and Care Services National Regulations. The proposed centre provides the minimum play area and floor areas and therefore this clause does not apply.

Clause 23 requires the consent authority to consider any applicable provisions of the *Child Care Planning Guideline* before determining a development application. These are detailed below:-

#### 3.1 Site selection and location

*Objective: To ensure that appropriate zone considerations are assessed when selecting a site*  
C1 The site is in a commercial zone and the applicant has considered the existing neighbouring properties in terms of privacy and acoustic impacts, setbacks and traffic and parking impacts.

The proposed outdoor play area is located on the southern and western sides of the building. Although this is at the front of the building new fencing and landscaping allows this to be a safe and secure outdoor area whilst maintaining the ability for rear lane vehicle access and parking. The building set-backs remain as existing with the only addition being to link the rear of the building with an existing out-building. The site is easily accessible by car, public transport or foot from surrounding residential areas and the wider city area.

*Objective: To ensure that the site selected for a proposed child-care facility is suitable for the use.*

C2 The 4.15 assessment report demonstrates that the site is suitable for the proposed development.

*Objective: To ensure that sites for child-care facilities are appropriately located.*

C3 The selected site is within the commercial core and within proximity of many different workplaces and residential properties. The use is suitably located.

*Objective: To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards*

C4 The site is not near any industry, service stations or odour generating uses that would prevent a risk to children.

#### 3.2 Local character, streetscape and the public domain interface

*Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape.*

C5 The development makes use of an existing characteristic building within the central area which remains consistent with the surrounding streetscape. Landscaping is proposed within the front setback to soften the use of fencing required to enclose the play areas. The proposed landscaping and open style fencing assists in integrating the changes to the streetscape.

*Objective: To ensure clear delineation between the child care facility and public spaces.*

C6 The development presents a clear delineation between the centre and the street, with suitable fencing and landscaping. New fencing is also proposed to the southern boundary that is currently an open boundary. Solid fencing will separate the existing car-park and new play space and is considered acceptable within this context to maintain privacy and security at the centre.



C7 Not applicable as there is only one building on the site.

C8 Not applicable as the site does not adjoin public open space.

*Objective: To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.*

C9 The front fence that will secure the outdoor play area will be 1.8 metres in height, and partly open to allow for visibility in and out of the site.

C10 The site is not on a classified road therefore this control is not applicable.

### 3.3 Building orientation, envelope and design

*Objective: To respond to the streetscape and site, while optimising solar access and opportunities for shade.*

C11 The building is existing and addresses the street with windows to two different playrooms. The outdoor area benefits from direct solar access from the north and east, there are both shade sails and a covered play space that provide shade for during warmer months. There is no overshadowing or loss of privacy envisaged.

*Objective: To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised.*

C12 The building is existing and the height is consistent with other properties in the street. The setbacks are also existing and allow for appropriate areas of outdoor space to be established without detriment to adjoining landowners. Minor alterations and additions are proposed to allow for the outbuilding to be connected to the main building and for a new kitchen space at the rear. The proposed building works will have negligible impact upon adjoining neighbouring properties.

*Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.*

C13 The setbacks are as existing and consistent with existing developments in the locality.

C14 does not apply as the site is not in a residential zone.

*Objective: To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character.*

C15 The built form of the centre respects and responds to its physical context, being located at the boundary of the commercial and residential zones. The distinctive building will be retained and re-used with only minor alterations required. Proposed alterations include new compliant access ramps and covered walkways via gated entries.

*Objective: To ensure that buildings are designed to create safe environments for all users.*

C16 The main entry to the centre is via a covered pathway from Peter Street. An additional entry is included at the rear but is more likely to be used by staff parking at the rear. Both entries provide safe and secure entry points into the centre for all users.

*Objective: To ensure that child care facilities are designed to be accessible by all potential users.*

C17 Access for people with disabilities will be assessed in detail during the assessment of the Construction Certificate application. Ramped entries are proposed at the front of the building, new internal ramps and an accessible toilet are also included within the internal alterations.

### 3.4 Landscaping

*Objective: To provide landscape design that contributes to the streetscape and amenity*

C18 A detailed landscape plan has been provided in support of the application. The landscaping contributes to the streetscape and to the overall amenity of the site by providing differing play areas and activities throughout.

C19 Car parking is to the rear laneway only with minimal opportunity for vegetation or shading in this area. Given that this is already a hard-stand area within this context the car-parking layout is acceptable.

### 3.5 Visual and acoustic privacy

*Objective: To protect the privacy and security of children attending the facility.*

C20 There is no overlooking of play spaces by open balconies.

C21 Indoor rooms and outdoor play areas are protected from overlooking by the proposed fencing and landscaping that will screen direct visibility into internal spaces.

*Objective: To minimise impacts on privacy of adjoining properties*

C22 As the subject development is single storey, there is no opportunity for direct overlooking of internal and private spaces of neighbouring properties.

*Objective: To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments*

C23 N/A - there are no residential properties adjoining the centre.

C24 Although the development is not within a residential area an acoustic report was prepared and submitted in support of the application. The report found that noise levels associated with both indoor and outdoor play met operational noise criteria.

### 3.6 Noise and air pollution

*Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.*

C25 The closest sensitive receptors are on the opposite side of Peter Street. Peter Street is a wide busy road at the edge of the CBD with existing ambient noise levels greater than predicted noise levels on site. The proposed fencing and landscaping will further assist in minimising disturbance from outdoor noise disturbance.

C26 N/A - the centre is not within an industrial area or adjacent to a railway or other substantial noise source.

*Objective: To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development.*

C27 - C28 The subject site is not subject to external sources of air pollution and these controls are not applicable.

### 3.7 Hours of operation

*Objective: To minimise the impact of the child care facility on the amenity of neighbouring residential developments.*

C29 The Guideline recommends core hours of operation in residential areas of 7am - 7pm weekdays. The proposal is for opening hours of 6am - 6pm Monday to Saturday and is located within the commercial core of the city. The hours are consistent with a number of other recently approved child care centres within the LGA and a condition of consent will limit use of the



outdoor area before 7am.

C30 is not applicable as the site is not within a mixed use development.

### 3.8 Traffic, parking and pedestrian circulation

*Objective: To provide parking that satisfies the needs of users and demand generated by the centre.*

C31 Car parking has been discussed and justified throughout the report.

C32 Not applicable to this site.

C33 A traffic and parking study was provided in support of the application and variations to the parking provision have been addressed.

*Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.*

C34 - C35 Vehicle access is from the rear laneway only which is considered suitable within the site context.

*Objective: To provide a safe and connected environment for pedestrians both on and around the site.*

C36 There is a defined pedestrian entry point into the centre from the existing footpath along Peter Street.

C37 is not relevant as the proposal is not a mixed-use development.

C38 Car parking is provided for staff only from the rear laneway. The building and play areas are separated from the vehicle movement area by a fence and self-closing gate.

## Part 4. Applying the National Regulations to development proposals

Only those regulations with statutory implications are addressed in this report. Other regulations will be assessed by other regulatory authorities during the required accreditation process for the centre.

### 4.1 Indoor space requirements

*Regulation 107- every child must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.*

The proposal provides 203m<sup>2</sup> indoor floor space, providing 3.83m<sup>2</sup> per child (maximum 60 children).

### 4.9 Outdoor space requirements

*Regulation 108 - every child must have a minimum of 7.0m<sup>2</sup> of unencumbered outdoor space. if this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.*

The proposal provides 420m<sup>2</sup> of outdoor play area providing 7m<sup>2</sup> per child (maximum 60 children).

The application has been assessed against the relevant guideline and all matters for consideration have been considered in the assessment. It is determined that the proposal is compliant with the planning requirements from this document.

Clause 25 of the SEPP relates to non-discretionary development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.

The following are non-discretionary development standards for the purposes of section 4.15 (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility:

*a) location- the development may be located at any distance from an existing or proposed early education and care facility,*

Comment: The development is located a considerable distance from existing child care facilities.

*b) indoor or outdoor space*

*i. for development to which regulation 107 or 108 of the Education and Care Services National Regulations applies-the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or*

*ii. for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies-the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause.*

Comment: The development satisfies the minimum indoor and outdoor floor space requirements.

*c) site area and site dimensions - the development may be located on a site of any size and have any length of street frontage or any allotment depth,*

Comment: There are no minimum sizes or dimensions for the allotment and Council has not applied any standards in this regard.

*d) colour of building materials or shade structures- the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.*

Comment: the site is not within a heritage conservation area and Council has not imposed any restrictions to building materials or colours

*To remove doubt, this clause does not prevent a consent authority from refusing a development application in relation to a matter not specified above or granting development consent even though any standard specified above is not complied with.*

Comment: The Council does not intend to refuse the application as it has demonstrated compliance with relevant standards. As detailed above, the standards specified in subclause 2 are satisfied.

#### 26 Centre-based child care facility-development control plans

(1). A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility:

(a) operational or management plans or arrangements (including hours of operation),

(b) demonstrated need or demand for child care services,

(c) proximity of facility to other early education and care facilities,

(d) any matter relating to development for the purpose of a centre-based child care facility contained in:

(i) the design principles set out in Part 2 of the Child Care Planning Guideline, or

(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part

4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).

(2). This clause applies regardless of when the development control plan was made.

Comment: The WWDCP does not contain any requirements regarding the demonstrated need for child care services or proximity to existing services. The WWDCP contains requirements for car parking and the Guideline defers to the DCP requirements in this instance.

### **State Environmental Planning Policy No 64 - Advertising and Signage**

The SEPP provides a series of objectives and assessment criteria against which signage must be assessed, with consent only to be granted if the development is consistent with these. This assessment is as follows:

Clause 3 - Aims and objectives of the policy

(1) *This Policy aims:*

(a) *to ensure that signage (including advertising):*

(i) *is compatible with the desired amenity and visual character of an area, and*

(ii) *provides effective communication in suitable locations, and*

(iii) *is of high quality design and finish,*

(2) *This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.*

The proposal is for business identification signage in the form of signs fixed to a fence at both the front and rear. The sign will display the name of the child-care centre. The assessment of the signs concludes that they are compatible with the amenity of the area, provide effective communication in a suitable location and are of a high quality design and finish.

Clause 7 - Relationship with other environmental planning instruments

*In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.*

The State Environmental Planning Policy prevails over the Wagga Wagga Development Control Plan 2010.

Clause 8 - Granting of consent to signage

*A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:*

(a) *that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*

(b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

The proposed signage is considered consistent with clause 3(1)(a) and has been assessed against the assessment criteria specified in Schedule 1 below.

#### Schedule 1 - Assessment criteria

##### **1 Character of the area**

- ☐ *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*

- ☐ *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*
- 2      *Special areas*
  - ☐ *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*
- 3      *Views and vistas*
  - ☐ *Does the proposal obscure or compromise important views?*
  - ☐ *Does the proposal dominate the skyline and reduce the quality of vistas?*
  - ☐ *Does the proposal respect the viewing rights of other advertisers?*
- 4      *Streetscape, setting or landscape*
  - ☐ *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
  - ☐ *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
  - ☐ *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
  - ☐ *Does the proposal screen unsightliness?*
  - ☐ *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
  - ☐ *Does the proposal require ongoing vegetation management?*
- 5      *Site and building*
  - ☐ *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
  - ☐ *Does the proposal respect important features of the site or building, or both?*
  - ☐ *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*
- 6      *Associated devices and logos with advertisements and advertising structures*
  - ☐ *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*
- 7      *Illumination*
  - ☐ *Would illumination result in unacceptable glare?*
  - ☐ *Would illumination affect safety for pedestrians, vehicles or aircraft?*
  - ☐ *Would illumination detract from the amenity of any residence or other form of accommodation?*
  - ☐ *Can the intensity of the illumination be adjusted, if necessary?*
  - ☐ *Is the illumination subject to a curfew?*
- 8      *Safety*
  - ☐ *Would the proposal reduce the safety for any public road?*

- ☐ *Would the proposal reduce the safety for pedestrians or bicyclists?*
- ☐ *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

An assessment against schedule 1 listed above is relevant to the sign.

The proposed signage constitutes business identification signs that display the name of the business to be carried on at the premises on which it is displayed, the signs measures 1m x 0.8m.

The proposed signage is deemed compatible with the existing and desired future character of the area, being typical of and compatible with existing signage in the locality. It does not detract from the amenity or visual quality of the commercial core area or obscure important features of the building.

The signs will not obscure or compromise views or signage relating to adjoining premises and the scale of the signs is in proportion to the building and streetscape.

The signs are not illuminated, will not protrude above the buildings, structures or tree canopies in the area or locality and there are no anticipated safety related issues as a result of the signage. Consequently, the proposed sign is considered to satisfy the assessment criteria specified in Schedule 1 of the Policy.

Conditions of consent will ensure the sign is erected in a safe and secure manner and given the location will have no impact on public or road safety.

**Section 4.15(1)(a)(ii) - Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority**

*Draft State Environmental Planning Policy - Remediation of Land*

The Draft SEPP was placed on exhibition until 31 March 2018. The SEPP will replace SEPP 55. The Explanation of Intended Effects outlines that the key operation framework of SEPP 55 will remain. Changes in the SEPP relate primarily to land undergoing remediation work and have no impact on the assessment of this application.

**Section 4.15(1)(a)(iii) - The provisions of any development control plan  
Wagga Wagga Development Control Plan 2010**

The proposed development complies with the development standards of the Wagga Wagga Development Control Plan 2010 as follows:

**Section 1 - General**

**1.10 Notification of a Development Application**

The application was advertised and notified to adjoining neighbours from 29 January - 12 February 2021 in accordance with the provisions of the DCP. One submission was received during the notification period and is discussed under section (d) of this report.

**1.11 Complying with the Wagga Wagga Development Control Plan 2010**

Where an application involves the variation of one or more controls within the DCP Council staff have delegation to approve variations but only limited to certain developments. The development is seeking to vary a DCP control by more than 10% and a submission has been received in relation to that variation. The application must therefore be determined by Council.

The variation proposed is as follows:

Clause 2.2 - Off street parking - the control requires 15 off street parking spaces and five spaces are proposed.

The DCP requires that the following criteria must be considered in determining whether a departure from the DCP is warranted:

- *Whether there will be any detrimental impact on the amenity of the existing and future residents/occupants, as well as, its surrounds.*
- *The nature and magnitude of the departure.*
- *The degree of compliance with other relevant controls, objectives and principles and any compensatory measures proposed to offset the departure.*
- *The circumstances of the case, including whether the particular control(s) is unreasonable and/or unnecessary.*
- *Priorities identified in a site analysis being of greater importance than what is being departed from.*
- *Whether non-compliance will prejudice the objectives of the zone and the aims of the DCP.*
- *Section of the Environmental Planning and Assessment Act 1979 - matters for consideration in the determination of a development application.*

The proposed variation has been justified and discussed in more detail under the applicable sections of this report.

## Section 2 - Controls that Apply to All Development

### 2.1 Vehicle access and movements

**C1** *Access should be from an alternative secondary frontage or other non-arterial road where possible.*

Access to the site is from the rear via Tongaboo Lane which is a non-arterial road.

**C2** *A Traffic Impact Study may be required where adverse local traffic impacts may result from the development. The traffic impact study is to include the suitability of the proposal in terms of the design and location of the proposed access, and the likely nature, volume or frequency of traffic to be generated by the development.*

A traffic and parking impact assessment was prepared in support of the application. The expected traffic generation associated with the proposed development is in the order of 48 vehicle trips in the AM peak period (24 IN, 24 OUT) and 42 vehicle trips in the PM peak period (21 IN, 21 OUT). This traffic generation is considered to be conservative as it does not incorporate the traffic generation of the existing site use. When added to existing traffic volumes within the locality all intersections retain the same level of overall service with minimal delays and outstanding capacity. The increased traffic generation from the proposed child care centre will have a negligible impact upon the existing road network.

**C3** *Vehicles are to enter and leave in a forward direction unless it can be demonstrated that site conditions prevent it.*

The five parking spaces are directly adjacent to the rear laneway and this control cannot be satisfied. The traffic report identifies the swept paths of vehicles reversing into these spaces implying that reverse parking will be preferred by the centre. As Tongaboo Lane is a one way thoroughfare, the time taken for a vehicle to reverse either in or out of one of these spaces is not anticipated to result in any significant delays to vehicle movements. There are many similar



types of spaces along the laneway that require vehicles to reverse out onto the laneway. The provision of any off street parking spaces within the CBD is very valuable and the benefit of including these spaces outweighs any risk of conflict from the short term manoeuvring of vehicles.

*C4 Provide adequate areas for loading and unloading of goods on site. The loading space and facilities are to be appropriate to the scale of development.*

The parking area to the rear of the site is the most appropriate location for deliveries to the site however depending on the time of day these spaces may not be available for such purpose. A management plan has been provided with the application that indicates deliveries will be during business hours and will occur via small vehicles that can make use of on-street parking. The implementation of the management plan will be secured by condition.

The use of the laneway will continue to be used for waste collection purposes and capacity does exist for vehicles to stop and drop off deliveries if required.

*C5 Access driveways are to be located in accordance with the relevant Australian Standard at the time of lodgement of an application.*

*C6 Ensure adequate sight lines for proposed driveways.*

Tongaboo Lane is a one-way thoroughfare. Whether vehicles park in a forward direction or reverse into the spaces the visibility is clear along the laneway allowing other users to notice vehicles manoeuvring to and from these spaces.

## 2.2 Off-street parking

*C1 Parking is to be provided in accordance with the table below. For uses not listed, similar land uses should be used as a guide in assessing car parking requirements.*

Child care centres require 1 parking space for every four children in the centre. With a capacity of 60 children, this results in a requirement of 15 spaces. The layout plans for the site show 5 car parking spaces provided to the rear, adjoining Tongaboo Lane. The variation to this control has been justified by the applicants as follows:-

- ☐ The alterations and additions proposed as part of this application limits the availability of on-site parking given the building envelope is to be retained in addition to the provision of indoor and outdoor play areas required by the Education Regulations
- ☐ The reliance of on-street parking for visitors and alternative transport arrangements for staff is considered to be a superior outcome as opposed to dominating the subject site with hard paved areas (as is existing).
- ☐ The provision of high quality landscaping throughout the site and reduced parking will ensure the character of the built form and surrounding locality will be retained.
- ☐ The proposal will remove the existing driveway from Peter Street and will therefore afford the public domain an additional on-street parking space.
- ☐ The subject site is located within the Commercial Core which will also encourage dual purpose trips either to nearby work places or to the various retail, commercial, community and recreational facilities within close proximity to the site.
- ☐ The site is readily accessible by foot to the surrounding residential neighbourhoods and purposely includes a pram storage area for those choosing to walk to the centre.

The above comments are noted. Furthermore both the LEP and DCP include controls that support the primacy of the commercial core and encourage developments that are accessible by different modes of transport. The subject site is very accessible and within a central location that is accessible to a number of alternative parking options.

C1 also needs to be read in conjunction with C6 which states:

*C6 In the case of redevelopment or change of use within the B3 zone where there is no increase in gross floor area, no additional car parking spaces will be required, except in the following instances:*

- a. Outbuildings are proposed to be used in association with the development, or*
- b. A Traffic Impact Assessment (TIA) is required by Council for the development.*

C6 does not strictly apply in the circumstances, as the development includes an increase of gross floor area, however, it provides clear guidance on how the car parking controls are intended to be read in the WWDCP 2010.

C6 of the WWDCP 2010 establishes the principal that existing floor area in the B3 zone is able to be used for a range of permissible land uses without triggering the need for additional car parking. It takes a practical approach recognising that land uses change over time, and that the cumulative impacts of the changes of land uses over sites across the CBD balance out, as parking demand increases on one site, and falls on another. C6 tries to ensure the Wagga Wagga CBD remains flexible in accommodating new uses by avoiding unnecessary restrictions/impediments to new businesses opening due to perceived parking shortages on an individual site.

This in turns supports the broader principal of supporting and facilitating development in the Wagga Wagga CBD, which is a clear objective of the WWLEP 2010 (and is supported by Clause 7.9 of the WWLEP 2010).

Whilst not explicitly stated by C6, it is logical that additions to premises in the B3 zone follow the same methodology. That is, that no additional parking is required for the existing floor area, with new parking only calculated for the increase in gross floor area. The illogical alternative to this is any addition, no matter how small, triggering the full recalculation of parking across a site. This would act as a disincentive to redevelopment and investment in the Wagga Wagga CBD, which is an undesirable outcome.

The proposed child care centre in the B3 Commercial Core zone helps to ensure the ongoing primacy and vibrancy of the Wagga Wagga Central Business District. Keeping uses in close proximity to other commercial uses increases the likelihood of multi-purpose trips. An example of this would be a parent working in the CBD utilising this centre and visiting other businesses nearby before or after collection of the child. A vibrant CBD is in the public interest as it provides a desirable place for people to interact and socialise in an accessible location.

Meeting car parking requirements in the CBD is not a problem exclusive to this development. Strict application of parking controls would effectively preclude any reasonable development on sites such as this close to the commercial core. The zoning of the land B3 - Commercial Core in itself implies that development of the land, from its historic residential use, to commercial uses is desired and anticipated. Therefore, to support the use of the land for its intended purposes under the WWLEP 2010, irrespective of the proposed development, some variation to parking requirements is likely to be required.

Based on the above discussion the variation to the control is supported.

*C2 The design and layout of parking is to be in accordance with the relevant Australian Standard at the time of lodgement of an application.*

Car parking will be required to be set out to meet the requirements for general parking and this will be secured by condition.

*C7 Variations to the parking requirements may be considered where minor alterations and additions are proposed and the changes do not encroach or reduce the current off-street parking spaces.*

As noted above there are minor additions proposed. The required areas of outdoor play space that are required to support the child care centre result in the loss of two off street parking spaces on site. The outdoor area introduces landscaping and increased amenity to the site in support of the proposed development. The loss of parking on the site is supported in accordance with the detailed variation noted under C1 above.

*C9 Provide trees within the parking area at a rate of 1 tree per 5 spaces in a row. Each tree to have a minimum mature spread of 5m and to be located in a planting bed with minimum width of 1.5m (between back of kerbs) and minimum area of 3.5m<sup>2</sup>.*

Although not within the parking area tree planting is proposed within the rear of the site. The rear parking area is already all hard-stand within close proximity to buildings, the laneway and infrastructure that would make planting within the parking area very difficult. The considerable improvement to landscaping within the site and removal of hard stand area is suitable justification for this variation.

## 2.3 Landscaping

Detailed landscaping plans have been prepared in support of the application. New outdoor areas are proposed on the eastern, southern and western sides of the centre providing areas for outdoor play and education.

The proposed landscaping works include the retention of the tree within the front setback together with additional trees and plantings throughout the new outdoor areas providing for shaded areas and all year use. Specific elements proposed by the child care centre include a sand-pit, shade sails, chicken coop and footpaths and sensory areas. The final specifics of these may change over time but all add to the diverse nature of the open space that is fully supported by vegetation that is suitable to the local climate.

The site is proposed to be secured via 1.8m high fencing which will provide security for children and staff occupying the centre. The front fence addressing Peter Street is setback 0.6m and includes the provision of landscaped elements to soften the height of the proposed fencing. The proposal will improve the streetscape character of the site and surrounding locality.

## 2.4 Signage

There are two business identification signs proposed, one at the front and one at the rear. The signs are the same providing the name of the centre and extending to an area of 0.8sq.m. The following general controls are of relevance to the proposal:-

1. *All signage and structures must relate directly to the lawful approved or exempt land use being conducted on the land to which the signage or structure is to be displayed.*

The proposed signs are business identification signs.

2. *Any sign or structure should reflect the architectural style of the building.*

The proposed signage is compatible with the style of the building.

3. *Signs should not obscure decorative forms or moulding and should observe a reasonable separation distance from the lines of windows, doors, parapets, piers and the like.*

The signs will not obscure decorative forms or mouldings and are clear of windows, doors and parapets.

4. *Signs should be of a size and proportion, which complement the scale of the existing building as well as surrounding buildings and signs. Signs should not significantly affect the presentation of the existing façade of the building.*

Proposed signage complies with this section and is considered to be of an appropriate size and proportion within the existing site context.

5. *The scale of lettering should also be proportioned to the area of the signage panel to which it will be applied.*

The scale of lettering is appropriate providing clear identification of the business only.

6. *Must be securely fixed and maintained in a structurally adequate and safe manner.*

The signs are to be fixed to the new boundary fencing at the front and rear of the site.

7. *The colour used in the design of a sign or structure should complement the colour finish of the building to which it will relate.*

The colour of the signage is considered acceptable in relation to the finish of the building.

8. *Corporate colours should be limited to the signage.*

N/A.

9. *The illumination of signage and structures by low set floodlighting is preferred, rather than the use of neon or boxed fluorescent lighting on buildings.*

The signs are not illuminated.

10. *The rationalisation of signage will be generally required where there is existing signage through the use of common directory pylon signs for multi-occupancy developments and by limiting the number of signs that may be erected on any-one building or site.*

N/A.

11. *A sign or structure must not endanger public safety or cause nuisance or a hazard by reason of its location, construction or design by either:*

a. *Emitting excessive glare or reflection from internal or external illumination or surface materials;*

b. *Obscuring the view of motorists or pedestrians;*

c. *Screening potentially hazardous road features;*

d. *Signage containing designs or messages which may either confuse or distract motorists*

The proposed signs will not endanger public safety, cause a nuisance or create a hazard.

## 2.5 Safety and security

The centre has been designed with a clearly defined public entry point and open pedestrian access. The centre offers natural surveillance, there are no blank walls or concealed areas and the fencing that is proposed around the site provides a safe and secure area for children to play outdoors. The proposal is consistent with the provisions of this clause. Lighting from street lights and the adjacent car park also contributes to a secure environment around the building.

## 2.6 Erosion and Sediment Control Principles

Standard conditions of consent will be included.

## 2.7 Development adjoining open space

The development does not adjoin open space.

## Section 3 - Heritage Conservation

The site is not located within the Heritage Conservation Area which extends along the west side of the street. The proposed works respond to the heritage conservation values and maintenance of the streetscape and this is reflected in the detailed design and landscaping that is proposed to the front of the building.

## Section 4 - Environmental Hazards and Management

The subject site is not identified as flood prone or bush fire prone.

## Section 5 - Natural Resource and Landscape Management

This issue has been addressed under Clauses 7.6 of the LEP above, given the nature of the works negligible issues are expected.

There are no applicable controls within Sections 6, 7, 8 or 9 of the WWDCP2010.

## Section 10 - Business Development

The subject site is to the western edge of the Central Spine and is described as follows:-

Buildings are detached with a number dating from the early twentieth century. Setbacks to the street vary from nil to two to three metres in a reasonably closely built pattern. Full width footpath awnings are isolated and not prevalent in the street.

The area has a well established landscape character, with centre road plantings that contribute to a pleasant streetscape. The street trees define the edge of the commercial precinct and support a positive transition to the adjoining residential precinct. Where buildings have a small setback landscaping is important to maintain the character of the street. The area is suited to a mix of service and professional uses such as real estate agents, employment and training uses, service and medical related uses.

### Objectives

O1 Retain the close-built character that derives from the early twentieth century heritage items and streetscape reference buildings.

O2 Encourage professional and service uses that complement the commercial core, and which are better located in the Business Zone rather than the Residential Zone to the west.

O3 Reinforce the landscape character of the precinct.

O4 Improve the legibility of existing through site links and provide additional links where possible.

The development is consistent with the objectives for this part of the commercial core.

#### Controls

*C4 Developments are to provide an active interface to the street. Avoid black walls and “back of house” services to Peter Street.*

The façade to Peter Street includes the main entry into the child care centre ensuring an active presence at all times. There are no blank walls or back of house activities in this area.

*C5 All parking, vehicle access, loading and unloading facilities to be from rear lanes where available.*

Complies

*C6 No off-street parking in the front setback.*

Complies

There are no applicable controls within Section 11 of the WWDCP2010.

## Section 12 - Specific Uses and Developments

### Section 12.5 - Child Care Centres

The proposed development is generally responsive to the objectives and controls of this section as noted below.

*C1 Provide adequate space to allow for drop off and parking requirements within the development site.*

There are five spaces provided on site that are to be used by staff. There is no off-street parking provision provided for the drop off and collection of children. Based on the central location of the site and the availability of alternative short term parking options nearby the variation to parking has been justified and detailed throughout the report.

*C2 Design and locate set down, pick up and parking areas to be visible from the road but to maintain the amenity of adjoining properties.*

The parking area is to the rear directly adjacent to the existing laneway. This area is already utilised for parking and will have no impact upon the amenity of the area.

*C3 The front setback is to include a 2m landscape strip. Landscape buffer areas may be required to side boundaries.*

The front setback to the property is proposed to form part of the outdoor space and benefits from increased landscaping throughout this area. Additional screening is proposed within a 600mm setback to the front boundary adjacent to the required 1.8m high fence. The proposed landscaping is also consistent with C18 of the Child Care Planning Guideline which requires that appropriate planting should be provided along the boundary.

*C4 Design and locate outdoor activity areas to maximise the natural site features, including climate considerations such as avoiding afternoon sun but take advantage of cooling breezes in summer. All playgrounds must be capable of supervision at all times.*



The outdoor area wraps around the southern side of the building allowing for different areas to be used at different times of the day. Each of the outdoor spaces are visible from within the building although there would always be staff outside too.

*C5 Outdoor play areas are to be fenced on all sides. The fencing is to be at least 1.8m in height, and to be equipped with child proof self locking mechanisms. The fence should be designed to prevent children scaling or crawling under.*

Open styled fencing of 1.8 metres in height is proposed to all of the boundaries to secure the outdoor play areas. Self-locking gates and covered walkways are also proposed to the front and rear entry areas.

*C6 The outdoor play area is to include an undercover space that is large enough for use during wet weather and to provide protection from the sun.*

There is an appropriate under-cover area at the rear of the building.

*C7 Design outdoor play areas to include a range of opportunities for developmental play.*

The final design of the outdoor area may change but plans indicate different areas and zones for different activities across the site.

*C8 Landscaping, mounding and fencing treatments may be required where there is potential for adverse amenity impacts to adjoining properties. This could include using landscaping to contain outdoor play areas or lapped metal or masonry fencing.*

The site is flat and there is no need for additional fencing or mounds.

*C9 Locate play equipment such as cubby houses, trampolines and slides not to overlook neighbours properties. Shade structures should not be located where they will be elevated in relation to boundary fences where they could cause visual or shadow impacts.*

Existing buildings together with the neighbouring use to the south being an open car-park ensure that there are no impacts from any play equipment towards neighbouring properties during the day.

*C10 Use vegetation that is non-allergenic and sensitive to water restrictions.*

Suitable species have been selected to comply with this clause.

There are no applicable controls within Sections 13, 14, 15 or 16 of the WWDCP2010.

#### **Section 4.15(1)(a)(iia) - Planning Agreements**

There is no draft or current planning agreement applicable to this application under Section 7.4 of the *Environmental Planning and Assessment Act 1979*.

#### **Section 4.15(1)(a)(iv) - any matters prescribed by the regulations**

There are no applicable matters prescribed by the regulations.

**Section 4.15(1)(b) - likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,**

#### **Context and setting**

The subject site is a detached building previously in use as a real estate office. There is hard stand area all around the building previously maximising the space for parking on site. Adjoining land to the south is a public car park providing short term parking for visitors to the CBD. To the rear of the property is a laneway servicing commercial premises that front Baylis

Street and that provides vehicle access to the subject site. The proposed change of use is entirely appropriate within the existing context and setting.

#### Streetscape

Whilst there are no changes to the front facade of the building the context in which the building will be viewed will change. New ramps, a covered walkway, landscaping, fencing and gates are all proposed within the front setback that will be visible from Peter Street. The changes will present the building differently but not in a way that is considered detrimental to the heritage streetscape. Landscaping is a positive addition and there are other examples of fencing enclosing front yard areas within the locality.

#### Access, transport and traffic

Vehicle access to the building is via Tongaboo Lane to the rear of the property. Five parking spaces will be laid out to the rear and vehicles will be encouraged to reverse into the spaces to allow for easier departure from the spaces onto the laneway. Whilst it is preferable for cars to enter and exit in a forward direction the site limitations do not allow for this and there are numerous other examples of such movements along Tongaboo Lane.

The expected traffic generation associated with the proposed development is in the order of 48 vehicle trips in the AM peak period (24 IN, 24 OUT) and 42 vehicle trips in the PM peak period (21 IN, 21 OUT). This traffic generation is considered to be conservative as it does not incorporate the traffic generation of the existing site use. Parents and carers dropping off children take an average of 7-8 minutes and will therefore be parked within on street parking or short stay car parks for a very short period of time thus creating minimal impact upon the availability of parking within the locality. The shortfall of off street parking has been justified earlier in the report.

#### Noise and vibration

There will be the potential for noise disturbance during demolition and construction works but this will be a short term impact and standard conditions of consent will apply with regard to hours of construction work.

An acoustic report has been prepared in support of the application to examine the impacts of the proposed development. The report reviews impacts of noise from the child care centre upon residential receptors and also the impact of traffic noise upon the child care centre. In both cases the noise monitoring and modelling shows noise levels easily met set criteria within the industrial noise policy. Suggested mitigation measures contained within the acoustic report include fencing around outdoor play areas (which is already required under other regulations), limited number of children in each outdoor space, maintenance works during operational hours and complaints procedure for noise complaints.

Given the location of the site within the commercial core, the proposed hours of operation and the location of sensitive receivers there are negligible noise impacts anticipated from the development.

#### Hours of Operation

The proposed hours of operation are 6am - 6pm Monday to Saturday. The use of all outdoor areas will be limited from 7am onwards each day and the applicants have agreed to this.

#### Services

The site is fully serviced, upgrades to sewer and stormwater connections will be subject to a s68 application.

#### Heritage

The opposite side of Peter Street falls within the heritage conservation area but the subject site does not. As noted above there are proposed alterations within the front setback that will be visible from the heritage area. The changes will present the building differently but not in a way that is considered detrimental to the heritage streetscape. There are no anticipated adverse impacts to the significance of the heritage area.

#### Natural Hazards

Section 733 of the Local Government Act 1993 provides that Councils will not incur liability for decisions or omissions concerning flood liable land or land subject to the risk of bushfire have been considered. A risk assessment has been completed and Council will be able to demonstrate that it has acted appropriately in its decision making when defending claims in liability or in circumstances where administrative decisions are challenged.

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. A risk assessment is not required as the development is not mapped as being on flood prone land.

The development has been considered against the relevant provisions of the WWLEP2010 and DCP. A risk assessment is not required as the development is not mapped as being on Bushfire Prone Land.

#### Man-Made Hazards

The site is not subject to any known man-made hazards.

#### Socio- Economic Impact in the Locality

The construction phase may see the employment of trades for a period of time. The completed child-care centre will be a new business within Wagga Wagga and provide new employment opportunities for staff. There are no likely adverse economic impacts

The child care centre will provide a valuable resource for families that live and work within close proximity to the site. There are no likely adverse social impacts.

#### Site Design and internal design

The changes to the site layout and the internal layout of the building have been described within the report and raise no concern. Many of the alterations such as fencing to secure outdoor play areas and outdoor structures to provide shaded play space are requirements of other regulatory bodies. The appropriate standards have been met and satisfied without detriment to the overall site layout.

#### The Principles of Ecologically Sustainable Development

*The following are principles of ecological sustainability:*

##### *1 The precautionary principle*

*Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*

*In the application of the precautionary principle, public and private decisions should be guided by:*

*(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*

*(b) an assessment of the risk-weighted consequences of various options.*

*The principle requires decision-making to give the environment the benefit of the doubt.*

## *2 Intergenerational equity*

*The present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations (that is, a partnership among all of the generations that may use or expect to benefit from the nation's resources).*

## *3 Conservation of biological diversity and ecological integrity*

*Conservation of biological diversity and ecological integrity should be a fundamental consideration.*

## *4 Improved valuation, pricing and incentive mechanisms*

*Environmental factors should be included in the valuation of assets and services:*

*(a) polluter pays (that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement), and*

*(b) the users of goods and services should pay prices based on the full cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, and*

*(c) environmental goals having been established should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms which enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

The proposed development will not result in any anticipated irreversible environmental damage, the proposed change of use utilises an established building within the commercial core and therefore is not considered to impact on biological diversity or ecological integrity. The proposal is consistent with the precautionary principle to the extent that all potential threats to the environment have been identified and assessed. Accordingly the principles of ESD are considered to have been followed.

### **Section 4.15(c) - The Suitability of the site for the development**

The subject site is an existing building that was last used as a business premises (real estate). There are various commercial premises to the north of the site as well as in proximity to the south and east and the western side of Peter Street and beyond is residentially zoned. The surrounding mix of residences and places of work is a suitable location for a child care centre being both convenient and accessible for many families.

The use is permissible within the B3 zone and the proposed alterations and additions to the premises are compatible with the commercial context of the site. Many of the proposed alterations are required to satisfy the requirements of the childcare regulations and these have been designed sympathetically to ensure that the presentation of the property especially towards Peter Street does not appear out of character.

The development is consistent with controls contained within applicable SEPPS, the WWLEP and DCP with no adverse impacts identified. The site is suitable for the intended development.

### **Section 4.15(d) - any submissions made in accordance with the Act or the regulation**

#### Referrals

The application was referred to relevant internal referral groups. Recommended conditions of consent have been included.

#### Advertising

The application was advertised from 29 January - 12 February 2021 in accordance with the provisions of the DCP.

#### Notification

The application was notified to adjoining neighbours from 29 January - 12 February 2021 in accordance with the provisions of the DCP. One submission was received during the notification period.

The grounds of the submission are detailed below:-

*There is a shortfall of parking on site and there is a reliance upon the use of existing car parks that may not always be available; Also the on-site spaces rely on vehicles not entering in a forward direction from Tongaboo Lane which has the potential to cause traffic issues. Overall support for the childcare centre but concerned that parking has not been suitably addressed.*

Comment: The parking shortfall has been discussed earlier in the report with the shortfall being justified by the applicant and the variation supported. It is acknowledged that the use of the adjoining car-park cannot be relied upon but as a short stay car park adjoining the proposed centre it is likely that parents and carers will park here for a short period of time particularly during drop-off in the morning when the car park is unlikely to be busy. The car park is currently available for short stay public use and no further restrictions are deemed necessary. The same applies equally to the use of on street parking spaces within the vicinity that are readily available throughout the day and again are likely to be utilised by parents and carers. Like any city centre location the provision of dedicated on site parking is limited. Current policies are supportive of developments and investment in the central area and if the proposal had not included any change to GFA no car-parking would have been required. The location is accessible and in walking distance of numerous parking options which allow the shortfall to be supported.

The use of car-parking spaces that directly adjoin the laneway is not ideal but is also not uncommon. The applicants have indicated that these spaces are for all day parking by staff members and that they will reverse into the spaces to allow leaving later in the day to be easier. The lane operates as a one-way system and the time taken for a car to stop and reverse is not considered to be significant and not likely to result in traffic issues. The ability for vehicles to park clear of the laneway and have clear visibility when exiting is a positive one and there are no objections to the planned use of these spaces.

#### Advertising

The application was advertised from 29 January - 12 February 2021 in accordance with the provisions of the DCP.

#### **Section 4.15(e) - the public interest**

The public interest is best served by the consistent application of the requirements of the relevant planning controls and by Council ensuring that any adverse effects on the surrounding area and the environment are avoided.

The proposed development will have a positive public interest with the addition of child care services within close proximity to homes and work places and have no adverse impact upon the surrounding locality. Upgrades to the landscaping will enhance the streetscape and contribute to the amenity of the site and location.

Taking into account the full range of matters for consideration under Section 4.15 of the *Environmental Planning and Assessment 1979* (as discussed within this report) it is considered that approval of the application is the public interest.



## Other Legislative Requirements

### **Section 1.7 of the EPA Act 1979 and Part 7 of the *Biodiversity Conservation Act 2016* (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)**

On 21<sup>st</sup> November 2017, certain zones of the WWLEP 2010 achieved Biodiversity Certification under the *Biodiversity Conservation Act 2016*, including all Business, Industrial, Residential and Special Infrastructure Zones that were in place at the time of the making of the *Biodiversity Conservation Act 2016*. The site was subject to the Biodiversity Certification Order at the time that the development application was made.

The effect of the Biodiversity Certification, as set out by Section 8.4 of the *Biodiversity Conservation Act 2016* is that:

*An assessment of the likely impact on biodiversity of development on biodiversity certified land is not required for the purposes of Part 4 of the Environmental Planning and Assessment Act 1979.*

*A consent authority, when determining a development application in relation to development on biodiversity certified land under Part 4 of the Environmental Planning and Assessment Act 1979, is not required to take into consideration the likely impact on biodiversity of the development carried out on that land.*

Therefore, no further consideration of these matters is required.

## **Council Policies**

None.

### **Development Contributions - Section 7.11/7.12 Environmental Planning and Assessment Act 1979 & Section 64 Local Government Act, 1993 and Section 306 Water Management Act, 2000**

Section 7.11/7.12 of the Environmental Planning and Assessment Act 1979 and the City of Wagga Wagga's Local Infrastructure Contributions Plan 2019-2034 enables Council to levy contributions, where anticipated development will or is likely to increase the demand for public facilities. A Section 7.12 contribution applies to developments that have a value greater than \$100,000. The cost of development is \$275,000 and therefore the following contribution is payable.

$\$275,000 \times 1\% = \$2750.00$ .

Section 64 of the Local Government Act 1993, Section 306 of the Water Management Act 2000 as well as the City of Wagga Wagga's Development Servicing Plan for Stormwater 2007 and/or City of Wagga Wagga Development Servicing Plan for Sewerage 2013 enable Council to levy developer charges based on the increased demands that new development will have on sewer and/or stormwater.

## Sewer

Council has recently adopted Addendums to the Development Servicing Plans for Sewer and Stormwater. The addendum for sewer states that *Any change of use to a building in the CBD will not be charged Section 64 Sewer infrastructure contributions from the date this Addendum is adopted by Council. This will apply until Council updates the Wagga Wagga City Council Development Servicing Plan Sewerage Services.*



Although the application does include some minor additions to the rear the overall development is a change of use to an existing building and therefore there is no sewer contribution payable.

#### Stormwater

The stormwater calculation is based on the increased area of hardstand resulting from the proposed works. The proposed additions are to be built across existing areas of hardstand at the rear of the site. As there is no increase to hardstand no stormwater contribution applies.

#### **Other Approvals**

None required

#### **Conclusion**

The development is considered to be satisfactory based on the foregoing assessment. The proposal complies with the requirements of the Environmental Planning and Assessment Act 1979 and Councils Policies.

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## **RECOMMENDATION**

It is recommended that application number DA20/0774 for Change of Use to Centre Based childcare facility (60 places) including associated alterations and additions, signage, landscaping and boundary fencing be approved, subject to the following conditions:-

### **CONDITIONS OF CONSENT FOR APPLICATION NO. DA20/0774**

Right click & select OR delete if NO deferred commencement consents

#### **A. SCHEDULE A – Reasons for Conditions**

The conditions of this consent have been imposed for the following reasons:

- A.1 To ensure compliance with the terms of the Environmental Planning and Assessment Act 1979 and Regulation 2000.
- A.2 Having regard to Council's duties of consideration under Section 4.15 and 4.17 of the Act.
- A.3 To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites.
- A.4 To improve the amenity, safety and environmental quality of the locality.
- A.5 Having regard to environmental quality, the circumstances of the case and the public interest.
- A.6 Having regard to the Wagga Wagga Development Control Plan 2010.
- A.7 To help retain and enhance streetscape quality.
- A.8 Ensure compatibility with adjoining and neighbouring land uses and built form.
- A.9 To protect public interest, the environment and existing amenity of the locality.

A.10 To minimise health risk to neighbouring residents and workers.

## B. SCHEDULE B – Deferred Commencement Conditions

N/A

## C. SCHEDULE C – Conditions

### Approved Plans and Documentation

C.1 The development must be carried out in accordance with the approved plans and specifications as follows.

Plan/DocNo	Plan/Doc Title	Prepared by	Issue	Date
01	Site Plan	Innovate Architects	A	17.12.2020
02	Floor Plans	Innovate Architects	A	17.12.2020
03	Elevations & Finishes Schedule	Innovate Architects	B	21.1.2021
04	Sections & Signage	Innovate Architects	B	21.1.2021
L-01	Site Plans/Calculations	Site Design & Studios	B	14.12.2020
L-02	Detailed Plan	Site Design & Studios	B	14.12.2020
L-03	Detailed Plan	Site Design & Studios	B	14.12.2020
L-04	Planting Details	Site Design & Studios	B	14.12.2020
L-06	Notes	Site Design & Studios	B	14.12.2020
L-07	Specification	Site Design & Studios	B	14.12.2020
M200399	Statement of Environmental Effects	Planning Ingenuity		18.12.2020
	Traffic and Parking Impact Assessment	McLaren Traffic Engineering	B	March 2021
	Plan of Management	Planning Ingenuity		
	Noise Impact Assessment	Acoustic Logic		20.1.2021

The Development Application has been determined by the granting of consent subject to and as amended by the conditions of development consent specified below.

NOTE: Any modifications to the proposal shall be the subject of an application under Section 4.55 of the Environmental Planning and Assessment Act, 1979.

### Requirements before a Construction Certificate can be issued

C.2 Pursuant to s7.12 of the Environmental Planning and Assessment Act 1979 and the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, a monetary contribution of \$2750 must be paid to Council, prior to the issuing of the Construction Certificate unless, before the time due for payment, the applicant and the Council enter into a legally binding agreement for the applicant to provide works-in-kind or any other material public benefit(s) to the Council in part or full satisfaction of the monetary contribution.

The monetary contribution payable under this condition will be indexed in accordance with Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 from the endorsed date of this Development Consent until the date of payment.

NOTE 1: Clause 3.2 of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034 provides for Section 7.12 contributions to be indexed in accordance with annual movements in the March quarter Consumer Price Index (CPI) (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

NOTE 2: The monetary contribution identified above remains applicable if paid within the same financial year as the date of determination. If payment is to be made outside this period, you are advised to contact Council prior to payment being made to determine if CPI increases/decreases have occurred since the date of this consent. The applicable rate of CPI at the time of consent is 117.4/115.1.

NOTE 3: A copy of the Wagga Wagga Local Infrastructure Contributions Plan 2019-2034, is available for inspection at Council Chambers, corner Baylis and Morrow Streets, Wagga Wagga, or on Council's website.

C.3 Prior to the issue of Construction Certificate the applicant must lodge a bond with Council of:-

\$2000 for security deposit on the kerb and gutter and footpath

Plus a non-refundable administration fee as per Council's fees and charges.

NOTE 1: Applicants will be required to contact Council PRIOR to making the payment to arrange a bond (BKG) number. This must be done prior to making payment at Council's customer service desk.

NOTE 2: In lieu of payment, the applicant can with written authorisation from their builder, utilise an ongoing bond should their builder hold an ongoing bond.

NOTE 3: All monetary conditions are reviewed annually, and may change on 1 July each year.

NOTE 4: Works in the form of driveways, kerb and gutter and footpath may require you to obtain a Section 138 Roads Act 1993 approval. Please contact Council's Road Reserve Officer on 1300 292 442 prior to undertaking such works.

NOTE 5: Council will accept a once off security deposit for the kerb and gutter and footpath for applicants who lodge multiple DA's with council. If the applicant has security deposits held by Council for kerb and gutter and footpath at the time of Construction Certificate application, then Council may waive the need for an additional bond to be paid.

NOTE 6: The bond held on the kerb and gutter and footpath is fully refundable upon completion of all works and upon inspection by Council to ensure that any damage to Council infrastructure has been repaired. The bond will not be refunded in the event that damage done to

Council's infrastructure is not repaired to the satisfaction of Council.  
All damage is to be repaired at the full cost of the applicant

- C.4 Prior to the release of Construction Certificate a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.

NOTE1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.

NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to release of Construction Certificate.

NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.

NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.

NOTE 5: The Section 64 Sewer base figure is nil.

NOTE 6: The Section 64 Stormwater base figure is nil.

NOTE 7: Section 64 contributions shall be indexed in accordance with CPI annually at the commencement of the financial year.

NOTE 8: The figures outlined in this consent are based on the current rate of CPI. Please be advised that CPI changes on a regular basis and you are advised to contact Council prior to payments being made, to ensure no further CPI increases/decreases have occurred since the date of this consent.

- C.5 Prior to issue of the Construction Certificate detailed plans and elevations of the food and drink preparation areas shall be submitted in accordance with the requirements of the Food Act 2003 and the Food Regulation 2015 and the Food Safety Standards Code. Plans shall include but not be limited to the floor, wall, ceiling covering, coving, exhaust canopy, personal and chemical storage areas.

**Requirements before the commencement of any works**

C.6 If the work involved in the erection or demolition of a building or structure:

- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the development site/works and the public place prior to works commencing on site.

All construction materials, waste, waste skips, machinery and contractors vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractor's vehicles will be permitted within the public space.

If necessary, an awning must be erected, sufficient to prevent any substance, from or in connection with the work, falling into the public place. Further the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

NOTE 1: Any such hoarding, fence or awning must be removed when the work has been completed.

NOTE 2: Any external lighting required by this condition must be designed and positioned so that, at no time, will any light be cast upon any adjoining property.

NOTE 3: Prior to any hoarding being erected, the applicant must ensure that an application for a Hoarding Permit is submitted to and approved by Council.

C.7 Prior to works commencing on site, toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a) a standard flushing toilet connected to a public sewer, or
- b) if that is not practicable, an accredited sewage management facility approved by Council, or
- c) if that is not practicable, any other sewage management facility approved by Council.

NOTE 1: The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced and the toilet facility must not be removed without the prior written approval of Council.

NOTE 2: "Vicinity" in this condition is defined to mean within 50 metres of the subject building site.

NOTE 3: The toilet facilities are to comply with all WORK COVER NSW requirements.

C.8 A CONSTRUCTION CERTIFICATE must be obtained pursuant to Section 6.7 of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority certifying that the proposed works are in accordance with the Building Code of Australia PRIOR to any works commencing.

NOTE 1: No building, engineering, excavation work or food premises fitout must be carried out in relation to this development until the necessary Construction Certificate has been obtained.

NOTE 2: YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE, even if you made an application for a Construction Certificate at the same time as you lodged this Development Application.

NOTE 3: It is the responsibility of the applicant to ensure that the development complies with the provision of the Building Code of Australia in the case of building work and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.

C.9 Prior to works commencing a container must be erected on site for the enclosure of all building rubbish and debris, including that which can be wind blown. The enclosure shall be approved by Council and be retained on site at all times prior to the disposal of rubbish at a licenced Waste Management Centre.

Materials and sheds or machinery to be used in association with the construction of the building must not be stored or stacked on Council's footpath, nature strip, reserve or roadway.

NOTE 1: No building rubbish or debris must be placed, or be permitted to be placed on any adjoining public reserve, footway, road or private land.

NOTE 2: Weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited must be retained. Documentation must include quantities and nature of the waste. This documentation must be provided to Council prior to application for an Occupation Certificate for the development.

NOTE 3: The suitable container for the storage of rubbish must be retained on site until an Occupation Certificate is issued for the development.

C.10 Prior to the commencement of works erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Council's:-

a) Development Control Plan 2010 (Section 2.6 and Appendix 2)

b) Erosion and Sediment Control Guidelines for Building Sites; and



## c) Soils and Construction Volume 1, Managing Urban Stormwater

Prior to commencement of works, a plan illustrating these measures shall be submitted to, and approved by, Council.

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.

- C.11 The existing street tree fronting the property shall be retained and protected from the proposed development. The tree shall not be impacted upon in any way without the consent of Council's Supervisor of Tree Planning and Management.

A Tree Protection Zone (TPZ) shall be constructed for all existing trees fronting the development in accordance with Australian Standards - AS 4970-2009 Protection of Trees on Development Sites.

Construction of Tree Protection Zone's, shall be completed and inspected by Council's Supervisor of Tree Planning and Management, prior to the commencement of any site works. Contact can be made by phoning 1300 292442 during normal business hours.

Removal, relocation or disruption of the Tree Protection Zone fencing will be considered as a breach of this consent. TPZ fences shall remain in place until the end of construction.

- C.12 The existing tree/s to be retained situated within the property of the proposed development shall be protected from all construction works.

All care must be taken to protect existing trees to be retained from damage, including street trees and trees located adjacent to the proposed development. The developer shall identify all trees to be retained prior to commencement of construction works.

A Tree Protection Zone (TPZ) shall be constructed for all existing trees to be retained within the development in accordance with Australian Standards - AS 4970-2009 Protection of Trees on Development Sites.

Construction of Tree Protection Zone's, shall be completed and inspected by Council's Supervisor of Tree Planning and Management, prior to the commencement of any site works. Contact can be made by phoning 1300 292442 during normal business hours.

Removal, relocation or disruption of the Tree Protection Zone fencing will be considered as a breach of this consent. TPZ fences shall remain in place until the end of construction.

If damage of any sort should occur to any protected trees / vegetation within the development, contact shall be made with Council's Supervisor of Tree Planning and Management to determine what remedial action should be taken. Throughout the construction period regular inspections of protected trees shall be carried out to ensure trees retained are of good health and vigour.

- C.13 Prior to the commencement of works, an Activity Approval is required under Section 68, Part B - 4, 5 and 6, of the Local Government Act 1993 for any public infrastructure sewer / stormwater works, where that work is proposed to be carried out on public or Council owned land.

- NOTE 1: The existing sewer spur to be upgraded to 150mm diameter
- NOTE 2: Works carried out under an approved Section 68 prior to a Development Consent and/or Construction Certificate being issued are subject to change and are at the applicant's risk.
- NOTE 3: Prior to the commencement of works a bond may be required to be lodged with Council for public infrastructure works. Refer to Council's Section 68 Activity Approval Application Guide for detail.

- C.14 Prior to works or activities commencing within the road reserve, approval under Section 138 of the Roads Act 1993 is required from Council.

A written application for Consent to Work on a Road Reserve is required to be submitted to and approved by Council. This shall include the preparation of a certified Temporary Traffic Management Plan (TTP) for the works.

It should be noted that work in the existing road reserve can only commence after the plan has been submitted and approved and then only in accordance with the submitted TTP. Please contact Council's Activities in Road Reserves Officer on 1300 292 442.

### Requirements during construction or site works

- C.15 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Construction Certificate.
- C.16 All excavation and backfilling associated with the erection/demolition of the building must be properly guarded and protected to prevent them from being dangerous to life or property.
- C.17 The permitted construction hours are Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays. All reasonable steps must be taken to minimise dust generation during the demolition and/or construction process. Demolition and construction noise is to be managed in accordance with the Office of Environment and Heritage Guidelines.
- C.18 All earthworks, filling, building, driveways or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development.
- C.19 The construction and finished area used for the manufacture, preparation, storage, packing, carriage or delivery of food for sale shall be constructed and maintained in accordance with the Food Act 2003 and Food Regulations 2015 and the Food Safety Standards Code.
- C.20 A Compliance Certificate for the plumbing and drainage work identified in Column 1 at the times specified in Column 2 must be obtained from Council.

COLUMN 1	COLUMN 2
Internal Sewer Drainage	When all internal plumbing and drainage work is installed and prior to concealment.
External Sewer Drainage	When all external plumbing and drainage work is installed and prior to concealment.

Stormwater Drainage	When all external stormwater drainage work is installed and prior to concealment.
Final	Prior to occupation of the building or structure.

### **Requirements prior to issue of an Occupation Certificate or prior to operation**

- C.21 Prior to issue of Occupation Certificate the redundant kerb layback in Peter Street shall be replaced with conventional barrier kerbing, and Council's footway rehabilitated, in accordance with Council's Engineering Guidelines for Subdivisions and Developments.
- C.22 Prior to the issue of an Occupation Certificate, interim or otherwise, the existing sewer spur servicing the lot shall be upgraded to a 150mm diameter SN8 sewer grade spur to service the development. These works must be carried under a Section 68 (PUBLIC) Activity Approval.
- C.23 Prior to issue of Occupation Certificate a finalised Plan of Management shall be prepared the details of which must be made available to all staff and parents. The Plan must be implemented on site at all times.
- C.24 Prior to the issue of the Occupation Certificate and at a minimum two (2) days prior to the food business premises commencing trade, a health inspection must be conducted by Council's Environmental Health Officer in accordance with the Food Act 2003 and the Food Regulations 2015, Food Safety Standards Code. A satisfactory final fit out and construction approval must be obtained by Council's Environmental Health Officer prior to commencing trade.
- C.25 Prior to the release of the Occupation Certificate the Food Business Premise and the current Food Safety Supervisor must be notified to the appropriate regulatory authority.
- C.26 An Occupation Certificate, must be obtained pursuant to Section 6.9 of the Environmental Planning and Assessment Act 1979, from either Council or an accredited certifying authority, prior to occupation of the building.

In order to obtain this, the "Final Occupation Certificate" form must be completed and submitted to Council with all required attachments - failure to submit the completed Occupation Certificate Application form will result in an inability for Council to book and subsequently undertake Occupation Certificate inspection.

**NOTE:** The issuing of an Occupation Certificate does not necessarily indicate that all conditions of development consent have been complied with. The applicant is responsible for ensuring that all conditions of development consent are complied with.

- C.27 A final inspection must be carried out upon completion of plumbing and drainage work and prior to occupation of the development, prior to the issuing of a final plumbing certificate Council must be in possession of Notice of Works, Certificate of Compliance and Works as Executed Diagrams for the works. The works as Executed Diagram must be submitted in electronic format in either AutoCAD or PDF file in accordance with Council requirements.

All plumbing and drainage work must be carried out by a licensed plumber and drainer and to the requirements of the Plumbing and Drainage Act 2011.

NOTE: Additional fees for inspections at the Plumbing Interim Occupancy / Plumbing Occupation stage may apply. This will depend on the number of inspections completed at this stage of the work/s.

- C.28 Prior to the issue of an Occupation Certificate a Water Plumbing Certificate from Riverina Water County Council shall be submitted to Council.

NOTE 1: The applicant is to obtain a Plumbing Permit from Riverina Water County Council before any water supply/plumbing works commence and a Compliance Certificate upon completion of the works. Contact Riverina Water County Council's Plumbing Inspector on 6922 0618. Please be prepared to quote your Construction Certificate number.

### **General requirements**

- C.29 No more than 60 children may be in attendance at the centre at any one time.
- C.30 The approved use must only be conducted on Mondays to Saturdays inclusive between the hours of 6.00 am and 6.00 pm.
- The outdoor area must not be used prior to 7am on any day.
- C.31 The owner must submit to Council and the NSW Fire Brigade an Annual Fire Safety Statement, each 12 months, commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.
- C.32 The car park and all associated facilities must be laid out in accordance with Australian Standards AS2890.1.2004 AS2890.2 2002 and AS/NZS2890.6.2009.

## **D. SCHEDULE D – Activity Approval Conditions (Section 68)**

N/A

## **E. SCHEDULE E – Prescribed Conditions**

Conditions under this schedule are prescribed conditions for the purposes of section 4.17 (11) of the Environmental Planning and assessment Act 1979.

- E.1 Fulfilment of BASIX commitments (clause 97A EP&A Reg 2000)
- The commitments listed in any relevant BASIX Certificate for this development must be fulfilled in accordance with the BASIX Certificate Report, Development Consent and the approved plans and specifications.
- E.2 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 98 EP&A Reg 2000)
- (1) For development that involves any building work, the work must be carried out in accordance with the requirements of the Building Code of Australia.
  - (2) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6

of that Act, such a contract of insurance shall be in force before any building work authorised to be carried out by the consent commences.

- (3) For a temporary structure that is used as an entertainment venue, the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

NOTE 1: This condition does not apply:

- (a) to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000 (the Regulation), subject to the terms of any condition or requirement referred to in clause 187(6) or 188(4) of the Regulation, or
- (b) to the erection of a temporary building, other than a temporary structure to which part (3) of this condition applies.

NOTE 2: In this condition, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:

- (a) development consent, in the case of a temporary structure that is an entertainment venue, or
- (b) construction certificate, in every other case.

NOTE 3: There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

### E.3 Erection of signs (clause 98A EP&A Reg 2000)

For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

NOTE 1: This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

NOTE 2: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

NOTE 3: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained.

E.4 Notification of Home Building Act 1989 requirements (clause 98B EP&A Reg 2000)

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
  - i) the name and licence number of the principal contractor, and
  - ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
  - i) the name of the owner-builder, and
  - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

NOTE: This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.

E.5 Entertainment venues (clause 98C EP&A Reg 2000)

If the development involves the use of a building as an entertainment venue, the development shall comply with the requirements set out in Schedule 3A of the Environmental Planning and Assessment regulation 2000.

E.6 Maximum capacity signage (clause 98D EP&A Reg 2000)

For the following uses of a building: a sign must be displayed in a prominent position in the building stating the maximum number of persons permitted in the building if the development consent for the use contains a condition specifying the maximum number of persons permitted in the building:

- (a) entertainment venue,
- (b) function centre,
- (c) pub,
- (d) registered club,
- (e) restaurant.



NOTE: Words and expressions used in this condition have the same meanings as they have in the Standard Instrument.

E.7 Shoring and adequacy of adjoining property (clause 98E EP&A Reg 2000)

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

NOTE: This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**F. SCHEDULE F – General Terms of Approval (Integrated Development)**

N/A